



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/491,094 01/24/00 HEATH

R 1975.99C

EXAMINER

QM32/0612

Frank J Catalano  
810 S Cincinnati Suite 405  
Tulsa OK 74119

ART UNIT PAPER NUMBER

3727  
DATE MAILED:

06/12/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.

09/491,094

Applicant(s)

HEATH ET AL.

Examiner

Robin A. Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2001.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-10 is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2000 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because the cross sectional view of figure 3 provides no cross-hatching. Correction is required.
2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the plastic material of the lid as described in the background of the invention in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP ' 608.02(d). Correction is required.

## INFORMATION ON HOW TO EFFECT DRAWING CHANGES

### a. **Correction of Informalities -- 37 CFR 1.85; 1097 O.G. 36**

New formal drawings must be filed with the changes incorporated therein. The art unit number, application number (including series code) and number of drawing sheets should be written on the reverse side of the drawings. Applicant may delay filing of the new drawings until receipt of the "Notice of Allowability" (PTOL-37 or PTO-37). If delayed, the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the "Notice of Allowability". The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

### b. **Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner **before** the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

### **Timing of Corrections**

Applicant is required to submit acceptable corrected drawings within the three month shortened statutory period set in the "Notice of Allowability" (PTO-37). Within that three month period, two weeks should be allowed for review of the new drawings by the Office. If a correction is determined to be unacceptable by the Office, applicant must arrange to have an acceptable correction re-submitted within the three month. Therefore, applicant should file corrected drawings as soon as possible.

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.

***Specification***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Spouted disposable cup lid having a spout inner wall smoothly converging with an inner wall of the lid clamp.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al (US 5,186,347) in view of Meyers (US 4,953,737).

Freeman discloses a lid having a clamp portion and an upwardly extending discharge spout, the discharge spout being entirely above the clamp portion. The inner wall of the clamp is seen in figures 2 and 5 to engage the upper, innermost portion of the cup rim. The inner wall of the clamp and an inner wall of the discharge spout does not smoothly converge to a discharge port of the discharge spout.

Meyers teaches a lid having an annular clamp 50 adapted to be seated on a cup rim and an upwardly extending discharge spout, an inner wall of the clamp and an inner wall of the discharge spout smoothly converge to a discharge port of the discharge spout.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of an inner wall of the clamp and an inner wall of the discharge spout smoothly converging to a discharge port of the discharge spout as taught by Meyers to the lid of Freeman by moving the inner wall of the clamp radially inwardly until such convergence is met. Doing so would allow complete drainage and a smooth flow of fluid from the lid upon attachment to a liquid filled container.

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***Allowable Subject Matter***

6. Claims 4-10 are allowable over the art of record.
7. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not disclose a lid as claimed wherein the lid comprises a frustoconical spout as set forth, a clamp having an inner, serrated lip and an outer lip having nodules.

***Response to Arguments***

8. Applicant's arguments filed April 2, 2001 have been fully considered but they are not persuasive.

It is to be noted the examiner is not responsible for entering amendments. Applicant is responsible for making the location of amendments to the claims and specification accurate so as to avoid any confusion and guesswork, and amendments can be properly entered by the staff responsible for entering the amendments.

Regarding the clamp of Freeman, it is "adapted to be seated on a rim of a cup and to grip inner and outer walls of the a lip of the cup". The claim limitation of "adapted to" does not require that the function actually occurs, merely that the structure is capable of performing the said function. Thus, Freeman meets the claim whether or not it is modified by Meyers to move the inner wall radially inwardly.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

11. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 305-3579 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature\_\_\_\_\_


Date\_\_\_\_\_

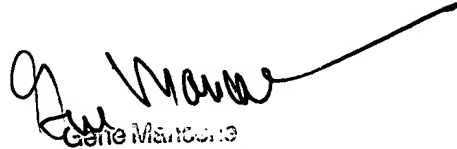
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner can normally be reached on Monday - Friday from 9:30 a.m. to 5:00 p.m. (Eastern time).

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If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bemby at (703)306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148. The fax phone number for this Group is (703) 305-3579.

Robin A. Hylton/rah   
June 6, 2001

  
Gene Mantoux  
Supervisory Patent Examiner  
Group 3700